

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

Sa'ud Habib, Beverly Williams, J. Marlene Smith, Kenneth Sliwinski, and Russ Dixon, individually and as representatives of a class of similarly situated persons, and on behalf of the M&T Bank Corporation Retirement Savings Plan,

Plaintiffs,

vs.

M&T Bank Corporation, Manufacturers and Traders Trust Company, M&T Bank Employee Benefit Plans Committee, Wilmington Trust Investment Advisors, Wilmington Funds Management Corporation, Wilmington Trust Corporation, Janet Coletti, Michele Trolli, Mark Czarnecki, Stephen Braunscheidel, Brian Hickey, Darren King, Kevin Pearson, Michael Spychala, Brent O. Baird, C. Angela Bontempo, Robert T. Brady, T. Jefferson Cunningham III, Gary N. Geisel, John D. Hawks, Jr., Patrick W.E. Hodgson, Richard G. King, Melinda R. Rich, Robert E. Sadler, Jr., Herbert L. Washington, Robert G. Wilmers, Robert J. Bennett, Michael D. Buckley, Jorge Pereira, Colin E. Doherty, Denis J. Salamon, Newton P.S. Merrill, and John Does 1–20,

Defendants.

Civil Action No.: 1:16-cv-375-FPG

Jacqueline Allen, individually and on behalf of herself and all others similarly situated,

Plaintiff,

vs.

M&T Bank Corporation, Manufacturers and Traders Trust Company, M&T Bank Employee Benefit Plans Committee, Wilmington Trust Investment Advisors, Wilmington Funds Management Corporation, Wilmington Trust Corporation, Robert G. Wilmers, Michael P. Pinto, Mark J. Czarnecki, and John Does 1-40,

Defendants.

Civil Action No.: 1:16-cv-0704-FPG

**PLAINTIFFS' MOTION FOR ENTRY OF [PROPOSED] PRETRIAL ORDER NO. 1
CONSOLIDATING ACTIONS, APPOINTING NICHOLS KASTER, PLLP
AND KESSLER TOPAZ MELTZER & CHECK, LLP INTERIM CO-LEAD
CLASS COUNSEL, AND APPOINTING TREVETT CRISTO INTERIM LIAISON
CLASS COUNSEL**

Pursuant to Federal Rules of Civil Procedure 42(a) and 23(g)(1) and (3), and Paragraph 5 of the Joint Stipulation and Order to Coordinate Related Cases and Establish Preliminary Case Schedule (approved by the Court on September 14, 2016), Plaintiffs Sa'ud Habib, Beverly Williams, J. Marlene Smith, Kenneth Sliwinski, Russ Dixon and Jacqueline Allen (collectively "Plaintiffs") respectfully move this Court for entry of the accompanying proposed Pretrial Order No. 1, consolidating the above-captioned actions, appointing Nichols Kaster, PLLP ("NK") and Kessler Topaz Meltzer & Check, LLP ("KTMC") as Interim Co-Lead Class Counsel, and appointing and Trevett Cristo as Interim Liaison Class Counsel.¹ This Motion is based on Plaintiffs' accompanying Memorandum of Law, the Declarations of Mark K. Gyandoh and Kai H. Richter (together with all exhibits thereto), the First Amended Complaint in the above-referenced *Habib* Action, the Complaint in the *Allen* Action, and all papers and pleadings filed in such actions.

Dated: September 30, 2016

Respectfully,

TREVETT CRISTO

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Proposed Interim Liaison Class Counsel

NICHOLS KASTER, PLLP

/s/ Kai Richter
Kai Richter, MN Bar No. 0296545*
Carl F. Engstrom, MN Bar No. 0396298*
Jacob Schutz, MN Bar No. 0395648*

¹ Defendants do not oppose the request to consolidate the above-captioned actions and expect to take no position with respect to Plaintiffs' request for appointment of their counsel as interim class counsel.

*admitted in W.D.N.Y.

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Proposed Interim Co-Lead Class Counsel

**KESSLER TOPAZ MELTZER
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Proposed Interim Co-Lead Class Counsel

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of September 2016, I electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system which will send a notification to all counsel of record.

s/ Lucinda Lapoff
Lucinda Lapoff